

REMARKS

Claims 1, 3-7, 9 and 11-15 are pending in the present application. No additional claims fee is believed to be due.

Claims 7 and 16-20 are canceled without prejudice.

Claims 1 and 9 have been amended to recite that the catamenial tampon comprises a fluid wicking skirt. Support for the amendment is found at page 7, lines 10-11 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC § 102 Over Balzar

Claims 1, 7, 9 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by Balzar (U.S. Patent No. 5,891,123).

The Office Action states that Balzar discloses a tampon wherein the tampon is made of absorbent material that is compressed into an absorbent member and the absorbent material of Balzar has surfaces and ends, as claimed. The Office Action states that Balzar discloses an overwrap that is fluid wicking and has a skirt portion that substantially covers the exterior surface of the absorbent member and permeates into an inner region, as claimed. The Office Action further states that the length of the skirt is inherent in the disclosure of Balzar.

The Applicants respectfully traverse the rejection to Balzar.

Balzar discloses a tampon comprising a cover and a flexible finger sheath. The finger sheath of Balzar is said to receive the user's finger and prevent soiling of the finger during insertion of the absorbent pledget into a body cavity, as well as, providing a means for removing the absorbent pledget from the body cavity. (See Balzar, column 7 lines 2-8). Balzar states that the cover for the tampon can be constructed of a perforated or non-perforated nonwoven, from a thermoplastic film which has been perforated to make it liquid permeable or from some other type of liquid – permeable material. (See Balzar

column 3, lines 66-67 and column 4, lines 1-2). Balzar states that only the portion of the cover that surrounds the pledget, should be treated with an emollient or surfactant (in the case of a nonwoven) or perforated (in the case of a film). (See Balzar column 7, lines 21-35). Balzar discloses that it is not necessary to perforate the portion of the cover that forms the finger sheath because one does not want body fluid to penetrate through the flexible sheath. (See Balzar column 7, lines 26-28). Moreover, Balzar states that the flexible finger sheath could be treated to prevent or inhibit fluid penetration with a material such as wax. (See Balzar column 7, lines 34-35).

The fluid wicking skirt of the present invention has very different characteristics from the finger sheath described in Balzar. Unlike the finger sheath in Balzar that is treated to inhibit fluid penetration, Claims 1 and 9 recite a fluid wicking skirt that is comprised of a fluid wicking overwrap. A “**fluid wicking overwrap**,” as defined in the specification, is the liquid pervious material covering the exterior surface of the compressed absorbent member, substantially permeating the inner region of the compressed absorbent member, and extending below the withdrawal end to form a skirt portion. (See Applicant’s specification, page 4, line 14). Thus, the fluid wicking skirt of the present invention is comprised of liquid pervious material. The finger sheath in Balzar is not.

Thus, it is respectfully submitted that Balzar does not anticipate the amended independent Claims 1 and 9 because unlike the Applicants, Balzar does not disclose a fluid wicking skirt.

Therefore, Balzar cannot anticipate the Applicants’ Claims 1 and 9. Claim 7 depends from 1. Claim 14 depends from Claim 9. Therefore, Balzar does not render Claims 1, 2, 7, 9 and 14 of the Applicants’ present invention unpatentable under 35 U.S.C. § 102 (b).

#### Rejection Under 35 USC § 102 Over Taylor

Claims 16 - 20 are rejected under 35 U.S.C. § 102(b) as being anticipated by Taylor (U.S. Patent No. 6,258,075). The Applicants’ have canceled claims 16-20 without prejudice. Therefore, the rejections as to Claims 16-20 are rendered moot.

Rejection Under 35 USC § 103(a) Over Balzar in view Sheldon, et al.

Claims 3, 4, 6, 11 and 15 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Balzar, in view of Sheldon, et al. (U.S. Patent No. 5,084,038).

The Office Action admits that Balzar does not disclose that the overwrap can be made of natural and synthetic fibers in the claimed ratio. The Office Action states that Balzar lists numerous materials that are suitable for the overwrap and also states that natural or synthetic fibers are suitable, but does not disclose combination of natural and synthetic fibers. It is stated in the Office Action that Sheldon discloses a tampon that has an overwrap covering the absorbent material of the tampon. The Office Action states that Sheldon discloses a particularly useful material can be made of 15% rayon and 85% polyester. It is contended in the Office Action that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Balzar with the preferred overwrap of Sheldon so that an overwrap with useful characteristics can be obtained in the tampon of Balzar.

The Applicants respectfully traverse the rejection.

Balzar discloses a tampon comprising a cover and a flexible finger sheath. The finger sheath of Balzar is said to receive the user's finger and prevent soiling of the finger during insertion of the absorbent pledget into a body cavity, as well as, providing a means for removing the absorbent pledget from the body cavity. (See Balzar, column 7 lines 2-8). Balzar states that the cover for the tampon can be constructed of a perforated or non-perforated nonwoven, from a thermoplastic film which has been perforated to make it liquid permeable or from some other type of liquid – permeable material. (See Balzar column 3, lines 66-67 and column 4, lines 1-2). Balzar states that only the portion of the cover that surrounds the pledget should be treated with an emollient or surfactant (in the case of a nonwoven) or perforated (in the case of a film). (See Balzar column 7, lines 21-35). Balzar discloses that it is not necessary to perforate the portion of the cover that forms the finger sheath because one does not want body fluid to penetrate through the flexible sheath. (See Balzar column 7, lines 26-28). Moreover, Balzar states that the flexible finger sheath could be treated to prevent or inhibit fluid penetration with a material such as wax. (See Balzar column 7, lines 34-35).

The fluid wicking skirt of the present invention has very different characteristics from the finger sheath described in Balzar. Unlike the finger sheath in Balzar that is

treated to inhibit fluid penetration, Claims 1 and 9 recite a fluid wicking skirt that is comprised of a fluid wicking overwrap. A “**fluid wicking overwrap**,” as defined in the specification, is the liquid pervious material covering the exterior surface of the compressed absorbent member, substantially permeating the inner region of the compressed absorbent member, and extending below the withdrawal end to form a skirt portion. (See Applicant’s specification, page 4, line 14). Thus, the fluid wicking skirt of the present invention is comprised of liquid pervious material. The finger sheath in Balzar is not.

Thus, it is respectfully submitted that Balzar does not teach or suggest a tampon having fluid wicking skirt formed from a fluid wicking overwrap extending beyond the withdrawal end of the absorbent material. In fact, Balzar teaches away from using a fluid wicking material for a flexible finger sheath. If presented with the problem of protecting the user’s finger in Balzar, one skilled in the art would not use the wicking material of Sheldon as this would defeat the problem that Balzar is attempting to solve. That is, the wicking material of Sheldon would become wet upon contact with fluids and allow fluids to contact the user’s finger.

Therefore, Balzar in combination with Sheldon, et al. does not render the Applicants’ Claim 1 and 9 obvious. Claims 3, 4 and 6 depend from Claim 1. Claims 11 and 15 depend from Claim 9. Accordingly, Balzar in combination with Sheldon, et al. does not render Claims 3, 4, 6, 11 and 15 of the Applicants’ present invention unpatentable under 35 U.S.C. § 103 (a).

Rejection Under 35 U.S.C. § 103 (a) Over Balzar in view of Agyapong, et al.

Claim 13 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Balzar (U.S. Patent No. 5,891,123), in view of Agyapong, et al. (U.S. Patent No. 6,554,814).

The Office Action states that Balzar does not disclose the overwrap as being a rayon/polyester 50/50 blend. The Office Action states that Agyapong discloses a tampon with an overwrap being particularly made from rayon, polyethylene, polypropylene, and blends of these materials. It is contended in the Office Action that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the overwrap of Balzar with a rayon/polypropylene overwrap as disclosed by Agyapong to obtain a good overwrap. With respect to the 50/50 blend, the Examiner considers this

to be a design choice that is within the purview of one of ordinary skill in the art. A rayon/ polypropylene blend is known in the art and arriving at an optimal ratio of the two materials involves only routine skill in the art.

The Applicants respectfully traverse the rejection.

Balzar discloses a tampon comprising a cover and a flexible finger sheath. The finger sheath of Balzar is said to receive the user's finger and prevent soiling of the finger during insertion of the absorbent pledget into a body cavity, as well as, providing a means for removing the absorbent pledget from the body cavity. (See Balzar, column 7 lines 2-8). Balzar states that the cover for the tampon can be constructed of a perforated or non-perforated nonwoven, from a thermoplastic film which has been perforated to make it liquid permeable or from some other type of liquid – permeable material. (See Balzar column 3, lines 66-67 and column 4, lines 1-2). Balzar states that only the portion of the cover that surrounds the pledget should be treated with an emollient or surfactant (in the case of a nonwoven) or perforated (in the case of a film). (See Balzar column 7, lines 21-35). Balzar discloses that it is not necessary to perforate the portion of the cover that forms the finger sheath because one does not want body fluid to penetrate through the flexible sheath. (See Balzar column 7, lines 26-28). Moreover, Balzar states that the flexible finger sheath could be treated to prevent or inhibit fluid penetration with a material such as wax. (See Balzar column 7, lines 34-35).

The fluid wicking skirt of the present invention has very different characteristics from the finger sheath described in Balzar. Unlike the finger sheath in Balzar that is treated to inhibit fluid penetration, Claims 1 and 9 recite a fluid wicking skirt that is comprised of a fluid wicking overwrap. A “**fluid wicking overwrap**,” as defined in the specification, is the liquid pervious material covering the exterior surface of the compressed absorbent member, substantially permeating the inner region of the compressed absorbent member, and extending below the withdrawal end to form a skirt portion. (See Applicant's specification, page 4, line 14). Thus, the fluid wicking skirt of the present invention is comprised of liquid pervious material. The finger sheath in Balzar is not.

Thus, it is respectfully submitted that Balzar does not teach or suggest a tampon having fluid wicking skirt portion formed from a fluid wicking overwrap extending beyond the withdrawal end of the absorbent material. In fact, Balzar teaches away from

using a fluid wicking material for a flexible sheath. If presented with the problem of protecting the user's finger in Balzar, one skilled in the art would not use the wicking material of Agyapong, as this would defeat the problem that Balzar is attempting to solve. That is, the wicking material of Agyapong would become wet upon contact with fluids and allow fluids to contact the user's finger.

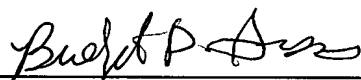
Therefore, Balzar in combination with Agyapong, et al. does not render Applicant's independent Claim 9 obvious. Claim 13 depends from Claim 9. Accordingly, Balzar in combination with Agyapong, et al. does not render Claim 13 of the Applicants' present invention unpatentable under 35 U.S.C. § 103 (a).

#### Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C §102 and 35 U.S.C. §103. Early and favorable action in the case is respectfully requested.

Applicants have made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicants respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 3-7, 9 and 11-15.

Respectfully submitted,

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